

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24258  
Docket Number MW-24357

Robert W. McAllister, Referee

**PARTIES TO DISPUTE:** { Brotherhood of. Maintenance of Way Employees  
{ Lake Superior & Ishpeming Railroad Company

**STATEMENT OF CLAIM:** "Claim of the System **Committee** of **the** Brotherhood that:

(1) **The** dismissal of Sectionman **D. R. Swenor** for alleged violation of Rule 'O-2' **on** October **31, 1980** was without just and sufficient cause, excessive and wholly **disproportionate** to the charge **levelled** against him.

(2) The **claimant** shall be reinstated with seniority and all other rights **unimpaired** and he **shall** be **compensated** for all **wage loss suffered.**"

**OPINION OF BOARD:** Claimant, **Sectionman D. R. Swenor**, was **initially** hired by Carrier as a laborer on May **17, 1973**. Carrier discharged Claimant for **violation** of **Company** Rule O-2 **in** that he failed to report to **work** **on** October **31, 1980**. The Organization **argues** **Claimant actually** attempted to notify his foreman concerning his need to be absent **on** October **31**. **It** contends the **assessment** of the supreme penalty is excessive and without just and **sufficient** cause.

The record discloses Claimant testified he overslept on October 31, **1980**, and three hours after starting time, looked for the crew, but did not find it. He admitted he had no permission to be off. The Board is satisfied Claimant was provided a fair and impartial hearing, and the evidence substantially supports Carrier's **action**. **Examining** the **penalty** imposed, this Board takes note of Claimant's lengthy record of discipline for similar offenses. The Carrier has a right to expect **employees** to show up for work, and at the minimum, secure authorization for absence. Considering the charge before us, we cannot view the Carrier's decision to discharge as an excessive or disproportionate **penalty**.

**FINDINGS:** The Third Division of the Adjustment Board, **upon** the whole **record** and all the evidence, finds and holds:

**That** the parties waived oral hearing;

**That** the Carrier and the **Employees** involved in this dispute are respectively Carrier and **Employees** within the meaning of the Railway labor Act, as approved **June 21, 1934**;

**That** this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

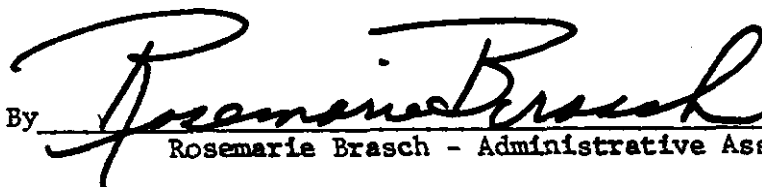
**That** the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By   
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 23rd day of March 1983.

